

Minutes
Bar Harbor Town Council
October 6, 2009

- I. CALL TO ORDER** – 7:03 p.m. – In attendance were Councilors: Sandy McFarland, Ruth Eveland, Paul Paradis, Peter St. Germain, Jane Disney, Greg Veilleux, Robert Jordan, Jr.; and Town Manager Dana Reed.

A. Excused Absence(s) - *None*

II. APPROVAL OF MINUTES

A. September 15, 2009

B. September 23, 2009 – Special Joint Meeting w/Planning Board

Mr. Paradis, with second by Ms. Eveland, moved to approve the minutes of the September 15, 2009 regular meeting and the September 23, 2009 Special Joint Meeting w/Planning Board as presented with the exception of item VII(D) on the September 15, 2009 minutes: was moved by Mr. St Germain.; and the motion in item III(A) of the September 23, 2009 minutes should reflect Town Hill instead of Tow Hill. Motion passed 7-0.

- III. ADOPTION OF AGENDA** – Mr. Paradis, with second by Ms. Eveland, moved to adopt the agenda as presented with the exception of adding an item between items VI(K and L) entitled: American Recovery and Reinvestment Act Port Security Grant – Request of the Town Manager for authorization to accept an \$880,234 grant to increase security and safety in the Town of Bar Harbor. Motion passed 7-0.

- IV. FINANCIAL STATEMENTS:** *(Customarily presented at the second meeting each month)*

V. PUBLIC HEARINGS:

A. Harbor Ordinance Amendment – *Public hearing on and possible adoption of a Harbor Ordinance amendment to clarify meeting requirements and appeal procedures, Ordinance #2009-04.* There being no public comment, Mr. Paradis, with second by Ms. Eveland, moved to adopt ordinance #2009-04, a Harbor Ordinance amendment to clarify meeting requirements and appeal procedures, as presented. Motion passed 7-0.

Harbor Ordinance
Town of Bar Harbor

An Amendment to clarify meeting requirements and appeal procedures.

The Town of Bar Harbor hereby ordains that Chapter 31, Boards, Committees & Commissions, and Chapter 153, Port and Harbor, of the Town Code are amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 31, BOARDS, COMMITTEES AND COMMISSIONS

ARTICLE IV, Harbor Committee

§ 31-19. Meetings.

The Committee shall meet ~~every month unless the Committee agrees to meet more frequently~~ a minimum of four times a year, one of which shall be for organizational purposes. Except when otherwise provided by vote of the Committee, all meetings shall be conducted by Robert's Rules of Order.

Chapter 153, PORT AND HARBOR

ARTICLE II, Harbor Rules and Regulations

§ 153-29. Appeals.

Any person adversely affected by a decision of the Harbor Master may appeal the decision to the ~~Bar Harbor Harbor~~ Harbor Committee. Persons filing appeals must make written application to the Town Clerk within 30 days of a written decision of the Harbor Master and pay such fee as determined and set by the Town Council from time to time.

[end of ordinance]

VI. REGULAR BUSINESS:

A. Consent Agenda – *Council Chair Sandy McFarland has scheduled a single vote to approve the following items of business without discussion, unless individual agenda item action is requested by a Councilor.*

- 1. Water & Sewer Fee Commitment** – *Request of the Town Manager for passage of a motion to commit the water and sewer fees to the Town Treasurer for collection.*
- 2. General Assistance Ordinance** – *Request of the Town Manager for passage of a motion to schedule a public hearing for November 17, 2009 to consider adoption of the annual revision of maximum benefit levels in Bar Harbor Code, Chapter 102, General Assistance, Appendixes A, B, and C pursuant to 22 MRSA §4305(4).*

Mr. Paradis, with second by Mr. Veilleux, moved to approve all items as published on the consent agenda. Motion passed 7-0.

B. Marine Resources Committee

- 1. Committee Consultation** – *Discussion of current projects, future plans and any support needed from Town Council* – Chris Petersen gave his report in a power point presentation. The photos were taken by resident Jeff Walls. The Committee's work include the Hadley Point re-opening of the conservation closure; preparing for the fall clam survey with 60 high school students, the re-opening of the second side of Hadley Point will take place January 1st and that leaves the entire Hadley Point area open to clamming; potential enhance-

ment of clam recruitment for Clark's Cove; work includes an electronic color shellfish map with clam flat status for licensed diggers; creating a website to include DMR closure updates; and seeking final approval for kiosk at Hadley Point Beach. Future projects include completing the website; potentially engaging in water-quality issues; developing a curriculum with the schools for student involvement; and looking into intertidal mussel harvesting regulations.

2. **Habitat Restoration Grant** – *Request of the Marine Resources Committee for permission to erect an informational kiosk at Hadley Point Landing for the purpose of educating the public on the Eel-grass Restoration Project, clamming regulations and other matters of public interest.* – Mr. Paradis, with second by Ms. Eveland, moved to authorize the Marine Resources Committee to erect an information kiosk at Hadley Point Landing and thank them for their work. Motion passed 7-0.

C. Conservation Commission

1. **Committee Consultation** – *Discussion of current projects, future plans and any support needed from Town Council* – Chair Jill Weber announced the recent award of a grant by the State Planning Office to create video on recycling using the Frog Puppeters. The video is posted on U-2; and it will air on the Acadia Channel. They participated in the Acadia Night Sky Festival. She reported their September annual inspection of open space was completed; they're looking at solid waste issues and toured EMR in Southwest; the Island towns will participate in a 2009 Summit where towns share their ideas and look at possible collaboration. The Commission asked she forward they are in support of the town's involvement of cruise ship water quality testing. And, they request the term dark sky protective lighting fixtures be use in policy language rather than compliance. It's more likely to occur on a volunteer basis.
2. **Street Light Policy** – *Recommendation of the Conservation Commission that Council incorporate language into the Street Light Policy requiring new street lights to comply with the Town lighting ordinance to showcase lighting that is energy efficient, lower cost, and safe.* – Mr. Paradis, with second by Ms. Eveland, moved to direct staff to contact Bangor Hydro to discuss the Town's goal to have replacement street lights be night sky compliant. Motion passed 7-0.

D. Communications Technology Task Force

1. **Committee Consultation** – *Discussion of current projects, future plans and any support needed from Town Council* – Chair Bryan Stevens reported that Steve Cornell is keeping them informed on the upcoming Cable Consortium contract renewal.

2. **Town-wide Wireless Network** – *An update on the RedZone-Town relationship specifically regarding the tower extension on Ireson Hill.* – Mr. Stevens reported that the Town has an informal agreement with RedZone and that they were scheduled to install the twenty foot extension on the Ireson Hill tower today, but had the wrong part so it is delayed.
 3. **Ethics Training** – *Report of the CTTF on options for on-line Ethics Ordinance training of board and committee members.* – The task force outline three options. Following a brief description, Mr. Paradis, with second by Ms. Eveland, moved to task the CTTF with the Online Ethics Ordinance Training project and to move forward with option two, as outlined in Steve Cornell's memo dated October 1, 2009. Motion passed 7-0.
- E. Taxi Permit Renewal: MDI Taxi & Tour Co.** – *Request of David Leeman for one taxi permit. (Approved by Police Chief and Proof of Insurance provided)* – Mr. Paradis, with second by Ms. Eveland, moved to approve the application of David Leeman for a taxi permit. Motion passed 7-0.
- F. Cruise Ship Passenger Services MOU** – *Request of the Town Manager for authorization to enter into a Memorandum of Understanding regarding compensation of the Chamber of Commerce for provision of information services to cruise ship passengers.* – Following a brief discussion, the Town Manager noted that a termination clause and a retroactive clause would be added to the MOU. Mr. Paradis, with second by Mr. Veilleux, moved to authorize the Town Manager to enter into a Memorandum of Understanding for Cruise Passenger Information Services with the Chamber of Commerce. Motion passed 7-0.
- G. Purchasing Policy** – *Request of the Town Manager for disqualification of the low road salt bidder, as permitted by the Purchasing Policy, due to inadequate past performance.* – Following a brief explanation, Mr. Paradis, with second by Ms. Eveland, moved to award the 2009-2010 road salt bid to Mid-Atlantic Salt, LLC, at the rate of \$69.00 per ton delivered. Motion passed 7-0.
- H. Route Three Earmark Project:**
1. *Possible formalization of support for seeking a congressional earmark for the reconstruction of Route 3 from Ireson Hill to West Street.* – Following a brief discussion, Mr. Paradis, with second by Mr. Veilleux, moved to endorse and support the effort to seek a Congressional earmark for the reconstruction of Route 3 from Ireson Hill to West Street. Motion passed 7-0.
 2. *Possible formation of a task force to seek a congressional earmark for the reconstruction of a portion of Route 3.* – Mr. Paradis, with second by Ms. Eveland, moved to form a Task force to pursue the

Route Three Earmark project comprised of Mathew Horton, representing the Economic Development Task Force; Anne Kreig, Town Planner; and Paul Paradis representing the Town Council. This Task Force shall meet as needed and report to the Town Council on an as needed basis. This Task force is tasked with the following tasks and has the authority to pursue them on behalf of the Town of Bar Harbor:

- a. Clearly define the need and purpose for this project.
 - b. Clearly define the scope, boundaries, and cost estimates of the project.
 - c. Market this project to area organizations to gather letters of support to communicate and market this project to our federal lawmakers.
 - d. Maintain communication with our Federal delegation, MDOT, ANP, FOA, and other relevant organizations.
 - e. Ensure the completion of the necessary paperwork, as required, to pursue earmark status for this project.
3. Further, this Task Force has the authority to start work immediately on the above tasks prior to formal approval of bylaws which shall be prepared by the Town Manager for consideration at the October 20, 2009 Town Council meeting. Motion passed 7-0.

I. Hazard Mitigation Grant Program – *Request of the Town Manager for permission to apply for a federal grant to fund storm water system improvements at the Transfer Station.* – Mr. Paradis, with second by Ms. Eveland, moved to authorize the Town Manager to apply for a federal grant to fund storm water system improvements at the Transfer Station. Motion passed 7-0.

J. FY10 Goal Setting – *Review of facilitator's report and possible action to finalize the language, set a deadline and select a responsible party for each goal.* – Discussion ensued and finalization of highlighted deadlines and naming responsible parties in the following sections:

- C. 1. Planning Director FY12
- C. 3. Cruise Committee
- D. 10. Change from Jackson Lab to West Street
- D. 11. Public Works
- E. 2. FY11
- G. 1. Town Manager FY11 and add: *operational* before cost; and between all lightning add: *new and replacement.*

Mr. Paradis, with second by Mr. Veilleux, moved to adopt the FY10 Council Goals as amended this evening. Motion passed 7-0.

K. Municipal Building Renovations:

1. *Report of the Finance Director on Phase One construction status.*
2. *Request of the Town Manager for a transfer of funds from the CIP undesignated account.* – Following the Finance Director's status report, Mr. Paradis, with second by Ms. Eveland, moved to authorize the Finance Director to transfer \$31,000 from the CIP Undesignated account #2182-6190 to the CIP Building Renovation account #2124-6130. Motion passed 7-0.

K. 1. American Recovery and Reinvestment Act Port Security Grant – *Request of the Town Manager for authorization to accept an \$880,234 grant to increase security and safety in the Town of Bar Harbor.* – Mr. Paradis, with second by Ms. Eveland, moved to authorize the Town Manager to accept an \$880,234 American Recovery and Reinvestment Act Port Security Grant for the purposes outlined in Chief Young's memo dated October 5, 2009. Motion passed 7-0.

L. General Assistance Fair Hearing Authority – *Request of the Town Manager for annual appointment of hearing officers.* – Mr. Paradis, with second by Ms. Eveland, moved to appoint Dexter Lee, Millard Billings, Robin Bennett, Michael MacDonald, Janet Muise and Stu Marckoon as Fair Hearing Authority officers for the Town of Bar Harbor. Motion passed 7-0.

M. Design Review Board – *Possible acceptance of the resignation of member Roc Caivano.* – Due to a conflict of interest in a recent Criterion violation, Mr. Jordan requested he be recused. Ms. Eveland, with second by Mr. Veilleux, moved that Councilor Jordan has an appearance of a conflict of interest in this matter. Motion passed 6-0-1 (Recused: Mr. Jordan).

Mr. Paradis, with second by Ms. Eveland, moved to accept the resignation of Roc Caivano from the Design Review Board and send a letter of thanks to him for his many years of service to the Town. Motion passed 6-0-1 (Recused: Mr. Jordan).

N. Treasurer's Warrant – *Request of Treasurer to authorize paid bills.* – Mr. Paradis, with second by Ms. Eveland, moved to sign the Treasurer's Warrant for paid bills. Motion passed 7-0.

VII. COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA

Ms. Eveland reported that the British visitors invited the high school band to play next year in the London Parade. She gave congratulations to the band. She also was presented and accepted, on behalf of the Town, a plaque from one of the visiting Lords of England.

Dr. Disney requested an update from Public Works Director Chip Reeves on the newly installed culvert at Hamilton's Pond.

Mr. Germain thanked Matt Horton for his work in getting the Town's attention to our federal congressmen, and possible federal funding for the much needed Route 3 work.

Mr. McFarland requested an update on a formal traffic study.

VIII. MATTERS FOR POSSIBLE EXECUTIVE SESSION:

A. Department Head Salary Plan – *(To be held in executive session as permitted by 1 MRSA 405.6.A for discussion or consideration of a personnel matter.)* – Mr. Paradis, with second by Mr. Veilleux, moved to go into executive session at 9:25 p.m., following a break, as permitted by 1 MRSA 405.6.A for discussion or consideration of a personnel matter. Motion passed 7-0. Council entered into executive session at 9:36 p.m. Council came out of executive session at 9:36 p.m.

B. Town Manager's Performance Evaluation – *(To be held in executive session as permitted by 1 MRSA 405.6.A for discussion or consideration of a personnel matter.)* - Mr. Paradis, with second by Ms. Eveland, moved to go into executive session at 9:36 p.m. as permitted by 1 MRSA 405.6.A for discussion or consideration of a personnel matter. Motion passed 7-0. Council entered executive session at 9:37 p.m. Council came out of executive session at 9:42 p.m.

IX. ADJOURNMENT – Ms. Eveland, with second by Mr. Veilleux, moved to adjourn at 9:42 p.m. Motion passed 7-0.

Paul Paradis, Secretary